

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In Re:

Case No. 8:15-bk-09934-CED

Kimberly S. LaRose,

Chapter 13

Debtor.  
\_\_\_\_\_ /

**SECURED CREDITOR'S OBJECTION TO  
CONFIRMATION OF CHAPTER 13 PLAN**

Bayview Loan Servicing, LLC (the "Movant"), a secured creditor, by and through counsel, and pursuant to 11 U.S.C. § 1325, objects to confirmation of the Chapter 13 Plan [D.E. 2], as proposed by Kimberly S. LaRose (the "Debtor"), and states:

1. The Movant holds a note and mortgage secured by property of the estate, as located at 6219 8<sup>th</sup> Avenue, Gulfport, FL 33707 (the "Property").

2. On February 26, 2015, a final judgment of foreclosure was entered in the amount of \$130,064.11, with interest, costs and applicable fees continuing to accrue under the loan documents.<sup>1</sup>

3. A plan can only be confirmed if it meets the requirements of 11 U.S.C. § 1325. If the plan includes a secured claim, which the Movant's claim is, 11 U.S.C. § 1325(a)(5) requires that one of three conditions must be met: (1) the creditor accepts the plan, (2) the creditor retains its lien in the collateral and receives payments under the plan totaling the amount of its allowed claim, or (3) the debtor surrenders the collateral securing the creditor's claim.

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<sup>1</sup> Movant is in the process of preparing a POC for filing which will update the current indebtedness owed under the loan documents.

4. Here, Debtor's Chapter 13 Plan, as proposed, does not comply with 11 U.S.C. § 1325(a)(5) because the Movant has not accepted the plan as the plan does not provide for the Movant to receive payments with a value equal to the amount of its claim and the plan does not surrender the collateral securing the Movant's claim.

5. Further, Movant objects to confirmation of the Chapter 13 Plan as it does not provide for payment of the contractual rate of interest or the market rate of interest. The Debtor is proposing a plan payment amount below the contractual rate of interest.

**WHEREFORE**, Bayview Loan Servicing, LLC respectfully requests that the Court deny confirmation of the proposed Chapter 13 plan and grant all other relief deemed just and proper.

**Dated: October 29, 2015**

**Respectfully Submitted,**  
**Kopelowitz Ostrow**  
**Ferguson Weiselberg Gilbert**

By: /s/Brian R. Kopelowitz  
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*Attorneys for Movant*

**CERTIFICATE OF SERVICE**

I CERTIFY that a copy of the foregoing Secured Creditor's Objection to Confirmation of Chapter 13 Plan was served on this 29th day of October, 2015 upon all counsel of record or *pro se* parties identified on the attached Service List/Creditor's Mailing Matrix in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notices of Filing.

/s/Brian R. Kopelowitz  
Brian R. Kopelowitz, Esq  
Florida Bar No. 097225  
kopelowitz@kolawyers.com

Label Matrix for local noticing  
113A-8  
Case 8:15-bk-09934-CED  
Middle District of Florida  
Tampa  
Thu Oct 29 15:07:15 EDT 2015

Amc Mortgage Services  
1100 Town and Country Rd Suite 1200  
Orange CA 92868-4693

Pinellas County Tax Collector (RE)  
Pinellas County Tax Collector  
PO Box 4006  
Seminole, FL 33775-4006

Amex  
Po Box 297871  
Fort Lauderdale, FL 33329-7871

United States Trustee - TPA7/13 7  
Timberlake Annex, Suite 1200  
501 E Polk Street  
Tampa, FL 33602-3949

(p)BANK OF AMERICA  
PO BOX 982238  
EL PASO TX 79998-2238

Citi Mortgage  
PO Box 6243  
Sioux Falls, SD 57117-6243

Citimortgage  
Po Box 790027  
O'fallon, MO 63368

Citimortgage Inc  
Po Box 6243  
Sioux Falls, SD 57117-6243

Department of Revenue  
PO Box 6668  
Tallahassee, FL 32314-6668

Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101-7346

Michael LaRose  
6219 8th Ave. S.  
Saint Petersburg, FL 33707-3138

Pinellas County Tax Collector  
PO Box 4006  
Seminole, FL 33775-4006

Kelly Remick  
Chapter 13 Standing Trustee  
Post Office Box 6099  
Sun City, FL 33571-6099

Kimberly S LaRose  
6219 8th Ave. S.  
Saint Petersburg, FL 33707-3138

William J Kopp Jr.  
Kopp Law PA  
360 Central Ave, Ste 430  
St. Petersburg, FL 33701-3857

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified  
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Bk Of Amer  
Po Box 982235  
El Paso, TX 79998

End of Label Matrix  
Mailable recipients 15  
Bypassed recipients 0  
Total 15